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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,224	12/19/2001	Mogens Bugge	P/1094-129	4362

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NEW YORK, NY 100368403

EXAMINER

OROPEZA, FRANCES P

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

GL

Office Action Summary

Application No.

10/026,224

Applicant(s)

BUGGE ET AL.

Examiner

Frances P. Oropeza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-23 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

A first species, figure 4, is a device using hydraulic energy generated by the heart comprising an executive organ with a hydraulic motor and a pump.

A second species, figure 5, is a device using hydraulic energy generated by the heart comprising two motors working in parallel.

A third species, figure 6, is a double bellows device in an integrated unit, using hydraulic energy generated by the heart.

A fourth species, figure 7, is a device using hydraulic energy generated by the heart comprising a stop valve and a regulating mechanism.

A fifth species, figure 8, is a device using hydraulic energy generated by the heart with the pump working in a counter phase compared to the heart beats, functioning as a counter-pulsator.

A sixth species, figure 10, is a device using hydraulic energy generated by the heart comprising a shuttle valve conducting blood from the arterial to the venous system.

A seventh species, figure 11, is a device using hydraulic energy generated by the heart comprising a shuttle valve that closes a valve when pressure in the vein is raised.

An eighth species, figure 16, is a device using hydraulic energy generated by the heart for generating electricity using a hydraulic motor.

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A ninth species, figure 17, is a device using hydraulic energy generated by the heart comprising a composite unit of a hydraulic motor and a hydraulic pump.

A tenth species, figure 18, is a device using hydraulic energy generated by a ventricle in the systolic phase and by the artery associated with the contra-lateral ventricle in the diastolic phase.

A eleventh species, figure 19, is an implantable device using hydraulic energy generated by the heart to transport liquid out of the body.

An twelfth species, figure 20, is an implantable device using hydraulic energy generated by the heart for dialysis comprising a pressure amplifier and pre-dilution mechanism.

A thirteenth species, figure 23, is a device using hydraulic energy generated by the heart integrated in a single unit of two bellows, a common pusher plate, and a regulator.

A fourteenth species, figure 25, a device using hydraulic energy generated by the heart with a membrane to separate the blood side from the hydraulic fluid side.

A fifteenth species, figure 26, a device using hydraulic energy generated by the heart comprising three bellows arranged concentrically and the bellows attached such that one bellows to a ventricle, the second bellows to the other ventricle and the third bellows to an artery.

A sixteenth species, figure 27, a device using hydraulic energy generated by the heart in a ventricle comprising a sensor, a registering device and an implanted computer.

The Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently there are no claims that are deemed to be generic.

The Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, the Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, the Applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should the Applicant traverse on the ground that the species are not patentably distinct, the Applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

The Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza, telephone number is (703) 605-4355. The Examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4520 for regular communication and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist, telephone number is (703) 308-0858.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

FPO
6/15/03

Angela D. Sykes

ANGELA D. SYKES
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